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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/067,852 | 02/08/2002 | Gordon Haas | HAAS-1 | 9666 |

7590 10/22/2003

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| EXAMINER |
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MILLER, BENA B

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| ART UNIT | PAPER NUMBER |
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3712

DATE MAILED: 10/22/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/067,852

Applicant(s)

HASS GORDON

Examin r

Bena Miller

Art Unit

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-- Th MAILING DATE of this communication appears on th cov r sh et with the correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 8, 9 and 11-13 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Dodge.

Regarding claim 1, Dodge teaches in figures 1-5 a toy building construction set comprising a plurality of geometrically shaped thin panels (12, 14, 18) having a soft texture (col. 2, par. 3) and providing a surface of loops (col. 6, lines 3-20), a flap (22; col. 3, lines 39-46; fig. 1 and 1a) and hook strips positioned on the exposed surface (col. 5, lines 6-16).

Regarding claim 3, Dodge further teaches resilient geometrical shaped panels (col. 2, lines 19-21).

Regarding claim 4, Dodge further teaches flexible geometrical shaped panels.

Regarding claim 8, Dodge further teaches angular shape geometrical shaped panels.

Regarding claim 9, Dodge further teaches triangle shaped panels (fig. 1 and 1a).

Regarding claim 11, Dodge further teaches looped cover panels (col. 6, lines 3-19).

Regarding claims 12 and 13, Dodge further teaches integrally attached flaps (fig. 1 and 1a).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 5 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Dodge in view of Roh.

Dodge teaches in the figures most of the elements of the disclosed invention, as noted above. However, Dodge fails to teach the panels comprising foam rubber. Roh teaches in figures 1-8 a construction set including panels made of foamed rubber (col. 2, lines 55-58). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use foamed rubber as taught by Roh for the panels of Dodge for the purpose of preventing injuries if the panels are thrown or stepped on (col. 2, lines 60-63).

Regarding claim 5, Dodge fails to teach an outer covering. Roh teaches that the panels may include a fabric cover (col. 3 par. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply an outer covering as taught by Roh to the panels of Dodge for the purpose of attaching fasteners thereto (col. 3, par. 2).

Claim 10 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Dodge.

Dodge fails to teach the panels' width between about one-half inch and about one inch. Dodge teaches that it is known to have the panels a particular width (col. 4, par. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made have the panels' width between about one-half inch and about one inch as taught by Dodge, since

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Dodge states at col. 4, lines 19-21 that such a modification would be large enough to be difficult for infants and small children to put completely in their mouths.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

bbm
October 15, 2003


DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700